



UNITED STATES DEPARTMENT OF COMMERCE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/160,424	09/25/98	SCHNEEBELI	1212

021396  
SPRINT COMMUNICATIONS COMPANY  
HARLEY R BALL  
8140 WARD PARKWAY 5W  
KANSAS CITY MO 64114

TM02/1002

EXAMINER  
WILLETT,S

ART UNIT	PAPER NUMBER
2152	9

DATE MAILED: 10/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/160,424</b>	Applicant(s) <b>Schneebell et al.</b>
	Examiner <b>Stephan Willett</b>	Art Unit <b>2152</b>
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>Period for Reply</b> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>		
<b>Status</b> <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Aug 13, 2001</u></p> <p>2a) <input checked="" type="checkbox"/> This action is FINAL.      2b) <input type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> 1035 C.D. 11; 453 O.G. 213.</p>		
<b>Disposition of Claims</b> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-31 and 33-54</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>1-31 and 33-54</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>		
<b>Application Papers</b> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
<b>Priority under 35 U.S.C. § 119</b> <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p> <p>a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Certified copies of the priority documents have been received.</li> <li>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</li> <li>3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> </ol> <p>*See the attached detailed Office action for a list of the certified copies not received.</p> <p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p>		
<b>Attachment(s)</b> <p>15) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). <u>9</u></p> <p>18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>20) <input type="checkbox"/> Other: _____</p>		

**DETAILED ACTION**

***Drawings***

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

***Claim Rejections - 35 USC § 103***

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferrel et al. with Patent Number 6,199,082 B1 in view of Change et al. with Patent Number 6,134,584.

5. Regarding claims 1, 5, 7, 13-16, 19, 25, 32-34, 38, 41-42, 46-47, 52, Ferrel teaches a system to publish network content.

6. Ferrel teaches *first and second production servers* at col. 9, lines 34-37.
7. Ferrel teaches *a staging area to publish content on command* at col. 10, lines 23-25.
8. Ferrel teaches *automatically transferring content at the same time* as “the title and content are published together”, “this is called dynamic title synthesis or dynamic synthesis, and allows content to be continually updated without need to modify and update”, etc, “with OLE a particular application can create a structured hierarchy where the root file itself has many substorages”, “the use of high bandwidth data delivery is within the scope of the present application” and “it then acquires this information from the publication storage or local storage at customer workstation [which could also be considered a production server] and organizes it” col. 10, 11, lines 24-25, 59-61, 1-3, 37-38 and 53-55.
9. Ferrel teaches the invention in the above claim(s) except for explicitly teaching *a scheduling system*. In that Ferrel operates to publish data, the artisan would have looked to the content network arts for details of implementing a publishing system. In that art, Change, a related network content provider, teaches downloading of data, col. 5, lines 52-54 in order to provide data at a specified time. Change specifically teaches “scheduling data download” at col. 5, lines 59-63. Further, Change suggests that “this invention includes the abilities of allowing the user to schedule data download from those web sites requiring user id and password”, col. 6, lines 63-65 will result from implementing the scheduled publish commands. The motivation to incorporate a data scheduling insures that data is timely sent. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the schedule system as taught in Change into the publisher described in Ferrel because Ferrel operates with network content and Change suggests that optimization can be obtained when publishing content. Therefore, by the above rational, the

above claims are rejected.

10. Regarding claim(s) 2, Ferrel teaches *a file server* at col. 9, lines 33 and 50. Thus, the above claim limitations are obvious in view of the combination.

11. Regarding claim(s) 3, 10, 17, 20-23, 30, 37, 43, 48, Change teaches *a firewall and user security* as “user id and password if required”, col. 6, lines 15-17 and in Ferrel teaches “each storage has its own access rights”, col. 12, lines 59. Thus, the above claim limitations are obvious in view of the combination.

12. Regarding claim(s) 4, 18, 35, 39, 44, 49, Ferrel teaches *processing for a plurality of servers* at col. 11, lines 32-35. Thus, the above claim limitations are obvious in view of the combination.

13. Regarding claim(s) 6, 9, 11, 24, 27-28 and 31, Ferrel teaches *adding or changing additional content* at col. 10, lines 55-58. Thus, the above claim limitations are obvious in view of the combination.

14. Regarding claim(s) 8, 12, 26, Change teaches *cancelling content delivery* at col. 6, lines 47. Thus, the above claim limitations are obvious in view of the combination.

15. Regarding claim(s) 11, 12, 29, 36, 40, 45, 50, Ferrel teaches *providing information such as log files and status information* at col. 15, lines 30-42. Thus, the above claim limitations are obvious in view of the combination.

16. Regarding claim(s) 51, 53-54, Ferrel teaches *replicating content and verifying content* at col. 15, lines 1-10. Thus, the above claim limitations are obvious in view of the combination.

*Response to Amendment*

17. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

18. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

19. Applicant suggests "this public distribution point is not a staging area used to generate content", Paper No. 8, Page 6, lines 4. As claimed, staging area is very broad and as noted above the distribution point was only one of many areas that reads on staging area. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

20. Applicant suggests "Ferrel does not disclose that the layout and/or content components of the publication can be automatically transferred from the publisher workstation to multiple servers at substantially the same time", Paper No. 8, Page 6, lines 7-9. Ferrel teaches "the title and content are published together", "this is called dynamic title synthesis or dynamic synthesis, and allows content to be continually updated without need to modify and update", etc, "with OLE a particular application can create a structured hierarchy where the root file itself has many substorages" and "it then acquires this information from the publication storage or local storage at customer workstation [which could also be considered a production server] and organizes it" col. 10, 11, lines 59-61, 1-3, 37-38 and 53-55 which inherently implies content is gathered at the same time to be published together. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

21. Applicant suggests "neither Ferrel or Change disclose", Paper No. 8, Page 6, lines 20 second access levels. However, change teaches "user id and password if required", col. 6, lines

15-17 and in Ferrel teaches “each storage has its own access rights”, col. 12, lines 59. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

22. Applicant suggests “neither Ferrel or Change”, Paper No. 8, Page 7, lines 7-8 teach a rollback or undo command. However, inherently an undo command would be part of the “advanced MPS features”, col. 11, lines 32-33 in Ferrel. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

***Conclusion***

23. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

24. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

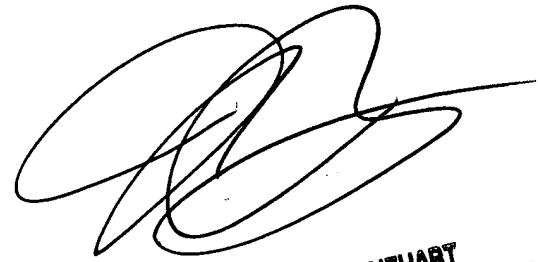
26. If attempts to reach the examiner by telephone are unsuccessful, the examiner’s

supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-6606.

27. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw

August 23, 2001



MARK H. RINEHART  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100